Complaints attacking the reasonableness of rates, or the validity of general rules and practices, involve problems of administrative discretion which call imperatively for uniform solution. Over these a single administrative tribunal, the Interstate Commerce Commission, alone has jurisdiction. *Texas & Pacific Ry. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426; *Baltimore & Ohio Ry. Co.* v. *Pitcairn Coal Co.*, 215 U. S. 481. On the other hand complaint of conduct which contravenes the Interstate Commerce Act as matter of law, and which, therefore, involves no administrative question, may be brought either before the courts or before the Commission. *Pennsylvania R. Co.* v. *International Coal Co.*, 230 U. S. 184. To this rule the principal case adds a further distinction: that a complaint that an existing rule was violated, rather than that it was unreasonable, need not be brought before the Commission. The further holding that it may be brought before a state court presents another problem. Under Section 9 of the Interstate Commerce Act, damage caused by violation of the Act can be sued upon in the federal courts or before the Commission. 4 U. S. COMP. STAT., 1913, § 8573. By implication the state courts are deprived of jurisdiction. *Copp* v. *Louisville & N. R. Co.*, 43 La. Ann. 511, 9 So. 441. See *Mitchell Coal & Coke Co.* v. *Pennsylvania R. Co.*, 230 U. S. 247, 250. But Section 22 of the Act saves all remedies existing at common law. 4 U. S. COMP. STAT., 1913, § 8595. In an effort to give meaning to this proviso, the court holds that for violation of a right existing at common law, but merely reaffirmed by the Act, suit may be brought in state courts. *Cf. Galveston, etc. Ry. Co.* v. *Wallace*, 223 U. S. 481.

MASTER AND SERVANT — ASSUMPTION OF RISK — PROMISE BY MASTER TO EFFECT SUCH A CHANGE IN THE METHOD OF WORK AS TO MAKE THE EMPLOYEE'S SERVICES UNNECESSARY. — The plaintiff was employed by the defendant to carry off waste material. The custom was to throw the waste in sacks from a second-story window into the plaintiff's wagon. The plaintiff objected to this as being a dangerous method of work and the defendant had promised to install a chute which would render the plaintiff's services unnecessary. The plaintiff continued work but was injured before the change was made. *Held*, that the plaintiff cannot recover. *Medlin Milling Co.* v. *Mims*, 173 S. W. 968 (Tex. Civ. App.).

Where a servant continues in employment relying on a promise to repair the defective premises, the defense of assumption of risk is not available. *Clarke* v. *Holmes*, 7 H. & N. 937; *Rice* v. *Eureka Paper Co.*, 174 N. Y. 385, 66 N. E. 979. Although a distinction was attempted in the principal case, it seems clear that this doctrine applies as well to a promise to install a new method as to one merely to repair a defect. *Schlitz* v. *Pabst Brewing Co.*, 57 Minn. 303, 59 N. W. 188. See 4 LABATT, MASTER AND SERVANT, 2 ed., p. 3857. Nor should the fact that the employment involves only simple labor with common implements change the result. *Brouseau* v. *Kellogg Switchboard & Supply Co.*, 158 Mich. 312, 122 N. W. 620; *Louisville Hotel Co.* v. *Kaltenbrun*, 26 Ky. L. Rep. 208, 80 S. W. 1163. *Contra, Marsh* v. *Chickering*, 101 N. Y. 396, 5 N. E. 56; *Webster Mfg. Co.* v. *Nesbitt*, 205 Ill. 273, 68 N. E. 936. But the fact that the promised remedy would deprive the servant of his job presents a question of more difficulty. A variety of technical reasons have been more or less unsuccessfully advanced for the effect attributed to the master's promise to repair. See 4 LABATT, MASTER AND SERVANT, 2 ed., pp. 3874 *et seq.* Such reasons aside, if the only policy underlying it is to enable the servant to retain permanent employment without being at his own risk during the continuation of the promise, then the case is correct, as here the plaintiff must lose his situation anyway. But it is submitted that the principal ground is that of justice to the servant because the master for his own benefit has induced the servant to stay. See *Schlitz* v. *Pabst Brewing Co.*, *supra;* Professor

Bohlen in 20 HARV. L. REV. 14, 91–93. The employer should therefore be liable whether or not the servant by doing him the favor hopes to retain his position.

NEGLIGENCE — DUTY OF CARE — ELECTRIC WIRES: DUTY OF ELECTRIC COMPANY TO LICENSEE ON LAND OF THIRD PARTY. — A fireman entering a city hall in the course of his duties in order to extinguish a fire was killed by contact with a pipe which had become charged with electricity through the negligence of the defendant company, which had wired the hall. His administrator now sues. *Held*, that he may recover. *Barnett* v. *Atlantic City El. Co.*, 93 Atl. 108 (N. J.).

It is settled that a fireman is a mere licensee. See cases collected in 35 L. R. A. N. S. 60. The decision in the principal case takes the ground that the special exemption by virtue of which the landlord is not required to use ordinary care in regard to the condition of his premises does not shield third parties. *Commonwealth Elec. Co.* v. *Melville*, 210 Ill. 70, 70 N. E. 1052; *Day* v. *Consolidated, etc. Co.*, 136 Mo. App. 274, 117 S. W. 81. This idea has been applied even where the plaintiff may have been a trespasser. *Caglione* v. *Mt. Morris Elec. Lt. Co.*, 56 N. Y. App. Div. 191, 67 N. Y. Supp. 660; *Connell* v. *Keokuk, etc. Co.*, 131 Ia. 622, 109 N. W. 177. See also *Guinn* v. *Delaware, etc. Co.*, 72 N. J. L. 276, 62 Atl. 412. In other jurisdictions the electric company's duty has been held no greater than the landowner's. *McCaughna* v. *Owosso, etc. Co.*, 129 Mich. 407, 89 N. W. 73. And this view has been applied where the defendant itself was at most a licensee at sufferance. *Cumberland, etc. Co.* v. *Martin's Adm'r*, 116 Ky. 554, 76 S. W. 394, 77 S. W. 718. Other states hold the electric company liable to a mere licensee, irrespective of its status, on the theory that electricity is such a dangerous agency that even the landlord would be so liable. *Wittleder* v. *Citizens', etc. Co.*, 50 N. Y. App. Div. 478, 64 N. Y. Supp. 114. *Augusta Ry. Co.* v. *Andrews*, 92 Ga. 706, 19 S. E. 713. *Cf. Davoust* v. *City of Almeda*, 149 Cal. 69, 84 Pac. 760. Some courts apply this theory even in favor of technical trespassers. *Lynchburg Telephone Co.* v. *Bokker*, 103 Va. 595, 50 S. E. 148; *Newark, etc. Co.* v. *Garden*, 23 C. C. A. 649, 78 Fed. 74. *Contra*, *Augusta Ry. Co.* v. *Andrews*, 89 Ga. 653, 16 S. E. 203. Several authorities, on the other hand, take the ground that if the plaintiff touches the defendant's wires he may thereby assume the status of a licensee or a trespasser toward the defendant and as such be denied recovery. *New Omaha, etc. Co.* v. *Anderson*, 73 Neb. 49, 102 N. W. 89; *Rodger's Adm.* v. *Union, etc. Co.*, 123 S. W. 293 (Ky.); *City of Greenville* v. *Pitts*, 102 Tex. 1, 107 S. W. 50. *Cf. Hector* v. *Boston Elec. Lt. Co.*, 161 Mass. 558, 37 N. E. 773. But on the whole the result in the principal case seems fair, in spite of the argument that the landowner's exemption should extend to anyone who works on his premises for his benefit.

POLICE POWER — NATURE AND EXTENT — STATUTE REGULATING THE PRIVATE USE OF INTOXICANTS. — The defendant was convicted under a Kentucky statute making it a crime to keep liquor elsewhere than in the owner's private residence. *Held*, that the statute is unconstitutional. *Commonwealth* v. *Smith*, 173 S. W. 340 (Ky. Ct. App.).

Kentucky had previously held unconstitutional a similar inhibition applying to private residences. *Commonwealth* v. *Campbell*, 133 Ky. 50, 117 S. W. 383. So this decision has at least the merit of consistency. In so far as these cases rest upon limitations upon legislative power in the state constitution, the conclusion cannot profitably be criticised. But the court also took the broad ground that regulation of private use of intoxicants is outside the police power. This view has support. *Ex parte Brown*, 38 Tex. Cr. 295, 42 S. W. 554; *State* v. *Gilman*, 33 W. Va. 146, 10 S. E. 283; *State* v. *Williams*, 146 N. C. 618, 61 S. E. 61; *Eidge* v. *Bessemer*, 164 Ala. 599, 51 So. 246. Other cases apparently